



WISCONSIN REGULATORY DIGEST

Volume 11, No. 1 A Publication of the PHARMACY EXAMINING BOARD APRIL, 1999

The Wisconsin Pharmacy Examining Board completed an extensive rule-making process and effective January 1, 1999, the following changes to the Administrative Code relating to the Practice of Pharmacy were effective. There were numerous amendments that were of a housekeeping nature relating to clarifying definitions, grammar, punctuation, etc. The following is a summary of the changes to the rules that are of a more substantive nature.

Exam Changes

There were many clarifications to Phar 1 through Phar 5 that related to the fact that as of November 1998, the Wisconsin Pharmacy Examining Board no longer administered their own separate state jurisprudence examination. There is a multi-state pharmacy jurisprudence examination

administered by NABP (National Association of Boards of Pharmacy) that includes both federal and state law. Also, the NAPLEX is now offered every day instead of during specific windows of time.

Alarm System Required

Phar 6.08 SECURITY was created to read "Effective January 1, 2000, a pharmacy shall have a centrally monitored alarm system in the pharmacy or the immediate physical structure within which the pharmacy is located."

Technician Issues

Phar 7.01(3) was amended to read "A pharmacist may supervise no more than one pharmacy intern and 2 non-pharmacists engaged in compounding and dispensing activities as described in sub. (1)(c),..." This rule change allows for a 2:1 technician to pharmacist ratio in any pharmacy in Wisconsin.

THE WISCONSIN PHARMACY EXAMINING BOARD

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The words "or written" were deleted from Phar 7.01(1)(a) to clarify that only a pharmacist may receive oral prescription orders of a prescriber, but allows for a non-pharmacist (technician) to receive written prescription orders from patients. The non-pharmacist may initiate a phone call to a prescriber for renewal of a prescription order as long

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as the pharmacist actually takes the authorization from the prescriber or an agent of the prescriber.

Return or Exchange of Health Items

To clarify circumstances in which health items may or may not be returned to the pharmacy, Phar 7.04 was repealed and recreated to read:

“Phar 7.04 RETURN OR EXCHANGE OF HEALTH ITEMS. (1) In this section:

(a) “Health item” means drugs, devices, hypodermic syringes, needles or other objects for injecting a drug, medicines, or items of personal hygiene.

(b) “Inpatient health care facility” means any hospital, nursing home, county home, county mental hospital, tuberculosis sanitarium or similar facility, but does not include community-based residential facilities, jail or prison facilities.

(2) No health items after taken from a pharmacy where sold, distributed or dispensed, may be returned, except for any of the following:

(a) From an inpatient health care facility, provided they are in their original containers and the pharmacist determines the contents are not adulterated or misbranded.

(b) Where the health items were dispensed in error, were defective, adulterated, misbranded, or dispensed beyond their expiration date.

(c) When in the professional judgment of the pharmacist substantial harm could result to the public or a patient if they were to remain in the possession of the patient, patient’s family or agent, or other person.

(3) Health items returned to a pharmacy pursuant to sub. (2)(b) and (c), may not be sold, resold, or repackaged and sold or resold, given away, or otherwise distributed or dispensed. Returned health items shall either be destroyed at the pharmacy or delivered for destruction or other disposal by an authorized person or entity.

(4) It is not a “return” for a patient or agent of a patient to deliver a previously dispensed drug or device to a pharmacy for the purpose of repackaging and relabeling of that previously dispensed drug or device, and subsequent return of the drug or device for the same patient’s use.

Note: The DEA does not permit the return of controlled substances to a pharmacy from a non-DEA registrant under any circumstances.

DEA registrants include hospitals but do not include nursing homes, thus it is federal law that does not allow the return of controlled substances from skilled care facilities to a pharmacy.”

Answering Machines

Phar 7.065 ANSWERING MACHINES IN PHARMACIES was created and states “Oral prescription orders may be received at a pharmacy via a telephone answering device and dispensed by the pharmacist if the voice of the physician or physician’s agent is known to the pharmacist, and provided other requirements of reducing the prescription order to writing, labeling and filing are met.”

Controlled Substances Changes

Phar 8.03(3) was modified to read: “Schedule III, IV, and V prescription orders may be filed with those for non-controlled drugs provided that orders for Schedule III, IV and V drugs are stamped in red ink with the letter “C” one inch in height in the lower right hand corner of the order or orders for Schedule III, IV and V substances may be filed separately. However, if a pharmacy employs an automated data processing system or other electronic recordkeeping system for prescription orders which permits identification by prescription order number and retrieval of original documents by prescriber’s name, patient’s name, drug dispensed, and date filled, then the requirement to mark the hard copy prescription order with a red “C” is waived.”

Phar 8.09(4) is changed to allow 7 days, instead of 72 hours, for a prescriber to supply a written order to the pharmacy for an emergency Schedule II prescription.

Facsimile Machine Rules

The facsimile machine guidelines that have been used for the last couple of years were adopted as rules with the creation of Phar 8.12. These rules also bring Wisconsin Administrative Code into conformity with regulations regarding federal requirements for prescription orders transmitted by facsimile machine.

“Phar 8.12 PRESCRIPTION ORDERS TRANSMITTED BY FACSIMILE MACHINE. (1) PRESCRIPTION DRUGS OTHER THAN

SCHEDULE II CONTROLLED SUBSTANCES.

A pharmacist may dispense a prescription drug, other than a schedule II controlled substance, pursuant to a prescription order transmitted by a facsimile machine from the practitioner or the practitioner's agent to the dispensing pharmacy if all of the following conditions are met:

(a) The transmitted facsimile prescription order shall contain all of the information required for a valid written prescription order. The order shall also contain the time and date of the transmission, as well as the telephone number and name of the transmitter.

(b) Unless the facsimile paper is non-fading, the facsimile prescription order received shall be duplicated by copy machine or other similar device and the copy must be physically attached to the order received.

(2) SCHEDULE II CONTROLLED SUBSTANCES.

A pharmacist may not dispense a Schedule II controlled substance pursuant to a prescription order transmitted by a facsimile machine unless all of the conditions stated in sub. (1) are satisfied, and any of the following conditions are met:

(a) The prescription order is written for a schedule II controlled substance to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion, and is transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile.

(b) The prescription order is written for a schedule II controlled substance for a patient in a long term care facility, and is transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile.

(c) The prescription order is written for a schedule II controlled substance for a patient enrolled in a hospice certified by Medicare under Title XVIII or licensed by this state, and is transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile.

(3) PRESCRIPTION ORDERS TRANSMITTED BY FACSIMILE CONSIDERED WRITTEN ORDERS. For all purposes under chs. 450 and 961, Stats., and the rules of the board, a prescription order transmitted by facsimile machine shall be considered the original written prescription order."

1997 Wisconsin Act 68

Administration of Drugs

This legislation will allow pharmacists to administer drug products and devices in the course of teaching self-administration techniques to a patient, pursuant to rules adopted by the Pharmacy Examining Board (PEB). This legislation required the language of those rules to be unanimously adopted by a Pharmacy Advisory Council made up of two PEB members, one Nursing Examining Board member, and one Medical Examining Board member. We anticipate adoption of these rules by both the Pharmacy Advisory Council and the Pharmacy Examining Board. The final rules will be effective April 1, 1999.

Continuing Education Requirement

1997 Wisconsin Act 68 also created the requirement of 30 hours of ACPE-approved continuing education with each biennial renewal of a pharmacist's license, beginning with renewal on June 1, 2000. This requires the PEB to promulgate rules to administer this law. The Board is currently completing that rule-making process and plans to issue a separate written communication to the profession as soon as possible. Pharmacists are advised to accumulate documentation of completed ACPE-approved continuing education since June 1, 1998. Minimum requirements will be to accumulate 30 hours between June 1, 1998 and June 1, 2000.

Pending Additions and Changes to Rules

The Pharmacy Examining Board has been working on several other areas for rule changes and additions. Sterile Pharmaceuticals (Phar 15) and Automated Dispensing Systems (Phar 7.09) will be additions to the rules of the PEB. Changes are being made to several rules of the PEB to include for the transmission and receipt of electronic prescription orders. Most of these rule changes and additions will be effective in late spring of 1999.

Department of Regulation and Licensing's Website

The Department of Regulation and Licensing has a website at <http://badger.state.wi.us/agencies/drl/>. The members of the Pharmacy Examining Board plan to use this site to communicate with pharmacists more frequently than just the biannual Regulatory Digest. By eliminating the lag time for printing and mailing, the information on the website will be more timely for the profession.

After the Board acts on final adoption of the pending rule changes and additions mentioned within this Digest, that information will be posted on the website. The E-mail address for any comments is dorl@mail.state.wi.us.

New Caregiver Law - 1997 WI Act 27

On October 1, 1998, a new Wisconsin law went into effect which provides new and stringent checks of the backgrounds of persons who provide care for others or have access to persons receiving care.

Beginning on October 1, 1998, the state of Wisconsin mandated that background checks will be required for all persons who seek to be employed in the caregiving industry and for all persons who want to obtain or renew a license to provide care. By October 1, 1999, all existing employees/contractors and license holders must have fulfilled the caregiver background check requirements.

A completed background check as prescribed under Wisconsin's law includes:

- * A completed self-disclosure Background Information Disclosure form;
- * An electronic status check of professional licenses and credentials through the Department of Regulation and Licensing;
- * An electronic criminal history search from the Wisconsin Department of Justice;
- * An electronic review of records kept by the Department of Health and Family Services for any substantiated findings of abuse or neglect and license restrictions or denials.

Based on the information obtained, additional research may include an out-of-state criminal history search, a tribal court criminal history search, a check of relevant military records or a check of county or other local records.

Once the background research is complete, employers and government agencies are expected to act according to the requirements of the new law coupled with prudent business practices. These new background checks will be used by the state in making employment and licensing decisions since various studies have shown predictable patterns of abuse, neglect and

misappropriation. Therefore, a background which includes specific crimes and offenses will effectively exclude individuals from certain employment or prohibit them from obtaining a license to practice certain professions.

Those who wish to obtain more detailed information regarding the new law may do so through accessing the following web site: "www.dhfs.state.wi.us" and click on "News & Initiatives."

Disciplines

K-MART PHARMACY #4255

JANESVILLE WI FORFEITURE/COSTS
Failed to file DEA Form-106 with the local DEA office for a loss or theft of controlled substances that occurred on 10/2/96. Also failed to report the theft or loss of controlled substances that occurred on 7/1/96-7/30/96 and on 10/2/96 to the board or to the local police. Pay a forfeiture of \$500 and costs of \$700. Effective 10/13/98. Phar 8.02(3)(f) Case #LS9810132PHM

ROGER G. IVERSON, R.PH.

EAGLE RIVER WI LIMITED/REPRIMAND
Failed to create a hard copy record of controlled substances dispensed. From 1/20/95 to 5/20/97, dispensed to a patient listing each dispensing as a new prescription, not as a refill. Dispensed large quantities of controlled substances without telephoning the physician and being assured that the patient should be receiving large amounts of opiates. Must pass examination by 4/30/99. Ordered to pay costs of \$600 and a forfeiture of \$5,300. Effective 10/13/98. Secs. 450.10(1)(a)2. and 6., 450.11(1)(5), Stats. Phar 8.05(2),(3), 8.08(1) Case #LS9810131PHM

CRAIG W. MOON, R.PH.

PEWAUKEE WI SUSPENDED/LIMITED
Admitted to diverting controlled substances from his employing pharmacy for his personal use. He has entered drug treatment and has continued in treatment to the present. He was convicted of two counts of misdemeanor theft and one count of possessing and illegally obtaining prescription drugs. His license is suspended for a period of not less than five years. The suspension is stayed for three months with limitations imposed. Also ordered to pay costs of \$350. Effective 8/12/98. Secs. 450.10(1)(a)2. and 3. and 450.11(7)(h), Stats. Phar 8.05(2), 10.03(1), (2). Case #LS9808122PHM

JOHN R. LITZENGERG, R.PH.

HALES CORNERS WI SUSPENDED/LIMITED
Diverted schedule II controlled substances from his employer for his own personal use. His license is suspended for not less than five years. The suspension is stayed for three months with limitations imposed. Also ordered to pay costs of \$200. Effective 8/12/98. Secs. 450.10(1)(a)2. and 3. and 450.11(7)(h), Stats. Phar 8.05(2), 10.03(1) and (2). Case #LS9808121PHM

MERITER HOSPITAL PHARMACY
MADISON WI REPRIMAND
During October, 1992, printed and distributed to nursing stations prescription blank forms for the use of physicians writing discharge medication prescriptions for patients. The blank forms bore the name of the hospital pharmacy. Approximately 400 pads of 100 sheets each were used over the next six years. All pads have now been removed. Pay costs of \$200. Pay a forfeiture of \$4,000. Effective 11/10/98. Phar 10.03(15) Case #LS98111104PHM

WILLIAM J. HERBERT, R.PH.
MADISON WI REPRIMAND
During October 1992 personally approved a decision to have his employer print and distribute to nursing stations prescription blank forms for the use of physicians writing discharge medication prescriptions for patients. The forms bore the name of the hospital pharmacy and its location addresses. Approximately 400 pads of 100 sheets each were used over the next six years. The pads have been replaced with pads bearing only the name of the hospital, without the name of the pharmacy. Effective 11/10/98. Phar 10.03(15). Case #LS98111102PHM

JAMES L. MOORE, R.PH.
TOMAH WI LIMITED/REPRIMAND
Dispensed medication to himself and a friend without obtaining prescription orders. Recorded prescriptions as being prescribed by a physician and told his supervisor they were telephone orders. The friend told him that his physician had ordered the prescriptions when in fact the physician had not. He had not talked with a physician and was discharged for making a false statement. Also made this false statement in a letter to the board. Later admitted he had never obtained physician authorization for any of the prescriptions. Pay costs of \$300 and a forfeiture of \$1,600. Effective 11/10/98. Secs. 450.10(1)(a)2 and 6, 450.11(1), Stats. Phar 10.03(1),(2),(5),(8). Case #LS98111106PHM

EDWARD S. NICGORSKI, R.PH.
MILWAUKEE WI REPRIMAND

Transferred two new prescriptions to a patient, erythromycin and Propulsid. When the patient asked if there were any side effects he told the patient nothing special, no. In fact, these medications taken together can cause serious heart problems or death. He failed to act upon the computer system warning. Stated he was the only pharmacist on duty, it was near closing time, and he recognized he'd made an error. Pay costs of \$250. Effective 11/10/98. Phar 7.01(1)(a)(e), 10.03(2) Case #LS9811107PHM

HOWARD A. MAUNTLE, R.PH.
NEW BERLIN WI REPRIMAND
Transferred two new prescriptions to a patient. The patient asked if there were any problems taking both at the same time. The pharmacist indicated to take this before your meal and take this after your meal. It is well known that taking these two medications together can cause serious heart problems or death. Failed to act upon the computer system warning. Pay costs of \$250. Effective 11/10/98 Case #LS9811103PHM

JAMES A. MEYER, R.PH.
MILWAUKEE WI SUSPEND AT LEAST 5 YEARS
From August 1992 through January 1994 diverted a substantial quantity of controlled substances from his employer for his own use, without consent and without a prescription. Is currently in a drug treatment program. The suspension is stayed for a period of 3 months with limitations imposed. Pay costs of \$200. Effective 11/10/98. Secs. 450.10(1)(a)2 and 3, 943.20(1)(a), 961.38(3g), Stats. Phar 10.03(1)(2) Case #LS98111105PHM

Department of Regulation and Licensing
Pharmacy Examining Board
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REGULATORY DIGEST

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- Press 5 **Name or Address Change**
Need a Duplicate License
Request a Letter of Good Standing
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Fax Number

(608) 261-7083

Verifications

All requests for verification of license status must be in writing. There is no charge for this service.

Endorsements

Requests for endorsements to other states must be in writing. The cost is \$10. Please make check or money order payable to the Department of Regulation and Licensing.

Digest on Web Site

March 1998, September 1998

Visit the Department's Web Site

<http://badger.state.wi.us/agencies/drl/>
Send comments to dorl@mail.state.wi.us

1999 Board Meeting Dates

April 13, May 11, June 16, July 13, August 11,
September 14, October 13, November 9,
December 7

Wisconsin Statutes and Code

Copies of the Pharmacy Examining Board Statutes and Administrative Code can be ordered from the Depart-

ment. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated January, 1999.

Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes are not automatically provided.

WIS. STATS. S. 440.11 ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.

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